

DECLARATION OF EMERGENCY**Department of Environmental Quality
Office of Environmental Assessment****New or Revised Emissions Estimation Methods
(LAC 33:III.501) (AQ240E1)**

In accordance with the emergency provisions of the Administrative Procedure Act, R.S. 49:953(B), which allows the Department of Environmental Quality to use emergency procedures to establish rules, and under the authority of R.S. 30:2011, the secretary of the department hereby declares that an emergency action is necessary to implement rules concerning the use of new or revised emissions estimation methods for annual compliance certifications required by LAC 33:III.507.H.

The department is reissuing Emergency Rule AQ240E, which was effective on December 24, 2003, and published in the *Louisiana Register* on January 20, 2004. This emergency rule clarifies requirements set forth in LAC 33:III.919, concerning emissions inventory, and LAC 33:III.507.H, concerning annual compliance certifications. LAC 33:III.919.C requires that emissions reported in the emissions inventory shall be calculated using the best available information. The department realizes that the Clean Air Act (42 U.S.C. §7430) requires EPA to periodically review AP-42 factors and that such emission factors may change upwards or downwards due to receipt of improved data.

The failure to adopt this rule on an emergency basis (i.e., without the delays for public notice and comment) would result in imminent peril to the public welfare. The air regulations require that permittees use the latest version of any AP-42 factor used to calculate emissions reported on an annual emissions inventory. For some facilities, this will result in a change in the calculation of emissions from levels that were previously in compliance with permit limits to levels that exceed those permit limits. Those facilities that have been reporting emissions in compliance with their permits may now be reporting emissions that exceed permit limits, even though their actual emissions have not changed. As a result, these facilities face potential enforcement actions, including substantial civil penalties. Some such facilities may elect to reduce or cease operations, which would have severe economic consequences for the firms involved, as well as their employees, suppliers, and customers. Adding LAC 33:III.501.C.11 allows the department to review changes in emission factors on a case-by-case basis prior to any actions taken by the department.

This Emergency Rule is effective on December 28, 2004, and shall remain in effect for a maximum of 120 days or until a final rule is promulgated, whichever occurs first. For more information concerning AQ240E1 you may contact the Regulation Development Section at (225) 219-3550.

Adopted this 28th day of December, 2004.

Mike D. McDaniel, Ph.D.
Secretary

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§ 501. Scope and Applicability

A. – C.10. ...

11. Emissions estimation methods set forth in the Compilation of Air Pollution Emission Factors (AP-42) and other department-approved estimation methods may be promulgated or revised. Emissions increases due solely to a change in AP-42 factors do not constitute violations of the air permit. Changes in emission factors other than AP-42 factors will be evaluated by the department on a case-by-case basis for appropriate action.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Department of Environmental Quality, Office of Air Quality and Radiation Protection, Air Quality Division, LR 16:613 (July 1990), LR 17:478 (May 1991), LR 19:1420 (November 1993), LR 20:1281 (November 1994), LR 20:1375 (December 1994), LR 23:1677 (December 1997), amended by the Office of the Secretary, LR 25:660 (April 1999), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2445 (November 2000), LR 28:997 (May 2002), amended by the Office of Environmental Assessment, LR 31:**.